

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Roscoe Franklin,	:	
	:	
Plaintiff,	:	Civil Action
	:	
v.	:	No. 02-CV-3359
	:	
General Electric Capital	:	
Assurance Company,	:	Judge O'Neill
	:	
Defendant.	:	

**DEFENDANT'S ANSWER IN OPPOSITION TO
PLAINTIFF'S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT¹**

Defendant General Electric Capital Assurance Company ("GECA"), by and through its undersigned legal counsel, hereby submits its Answer in Opposition to Plaintiff's Cross-Motion for Partial Summary Judgment, and in support thereof avers as follows:

1. Paragraph 1 of Plaintiff's Cross-Motion for Summary Judgment contains no averment of fact to which a responsive pleading is required. To the extent that a response is deemed necessary, the averments in that paragraph are denied.
2. Admitted. By way of further response, defendant GECA has fully paid the benefit to which plaintiff Roscoe Franklin is entitled under the clear and unambiguous terms of the Policy.
3. Admitted.
4. Denied as stated. Plaintiff's characterizations of the terms of the Policy are denied. The Policy is a written document that speaks for itself.
5. Denied.

6. Denied.

7. Paragraph 7 of Plaintiff's Cross-Motion for Partial Summary Judgment contains no averment of fact to which a responsive pleading is required. To the extent that a response is deemed necessary, the averments in that paragraph are denied.

8. Admitted in part, denied in part. It is admitted that the language of the Policy is not disputed. It is denied that there is any genuine issue of material fact as to the amount of coverage to which Plaintiff is entitled under the clear and unambiguous terms of the Policy

WHEREFORE, Defendant GECA respectfully requests that the Court deny Plaintiff's Cross-Motion for Partial Summary Judgment.

Respectfully Submitted,

**ECKERT SEAMANS CHERIN
& MELLOTT, LLC**

By: _____

Heather E. Rennie, Esquire
Eric M. Fink, Esquire
1515 Market Street, 9th Floor
Philadelphia, PA 19102

Attorneys for Defendant

Dated: August 12, 2003

¹ Defendant GECA incorporates herein by reference its Motion for Summary Judgment (with supporting Brief), as well as its Answer in Opposition to Plaintiff's Motion for Leave to Amend Complaint (with supporting Brief).

CERTIFICATE OF SERVICE

I hereby certify that, I have today served a true and correct copy of the foregoing Answer in Opposition to Plaintiff's Cross-Motion for Partial Summary Judgment, and accompanying Brief in support thereof, via hand delivery upon the following counsel of record:

Robert J. Sugarman, Esquire
100 North 17th Street, 11th Floor
Philadelphia, PA 19103

Attorney for Plaintiff

ERIC M. FINK

Dated: August 12, 2003

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	:	
Defendant.	:	

ORDER

AND NOW, this ____ day of _____, 2003, upon consideration of the Plaintiff's Cross-Motion for Partial Summary Judgment, and Defendant's response thereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Plaintiff's Motion is **DENIED**.

BY THE COURT:

J.